



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/629,447 | 07/28/2003 | William C. Allen | 014861-600002 | 5734 |
| 7590 | 08/05/2004 | | EXAMINER | |
| Blaney Harper, Esq. Jones Day 51 Louisiana Avenue, N.W. Washington, DC 20001-2113 | | | ROGERS, DAVID A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2856 | |

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/629,447 | ALLEN ET AL. | |
| | Examiner | Art Unit | |
| | David A. Rogers | 2856 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-52 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 23-52 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 20030728.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Specification

1. The amendment filed 26 March 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

a. The applicant describes the shape of the top securing member as being "serpentine" when viewed from the top (see page 13A). However, the applicant was very clear in their original disclosure that the shape of the top and bottom securing members is circular when viewed from the top (see page 11, lines 15-20).

b. The applicant describes the abutments may include a portion of the top member other than the locking rings, top locking rings, or a portion of the locking rings below the openings. The specification, as originally filed, does not disclose the abutments as being anything but the regions with the locking rings.

Applicant is required to cancel the new matter in the reply to this Office Action.

2. The first paragraph on page 1 requires additional revision. The following is a recommendation for this paragraph:

This is a continuation of Application 10/224,719 filed August 21, 2002 and entitled "Interface Between a Piece of Baggage and a

Preconcentrator”, now United States Patent 6,651,520, which is related to Application 10/224,688 filed 21 August 2002 and entitled “Method of Analyzing the Constituents of Air Extracted from the Interior of a Piece of Baggage”, now abandoned.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 23-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant argues, in their preliminary amendment filed 26 March 2004, that the shape of the top member is critical to the invention. In the preliminary amendment the applicant states that:

“Here, new claim 23 is directed to an interface comprising a top securing member that has a particular shape.”

and

“Thus, the shape of the perimeter of the top securing member in new claim 23 is significant.”

Claim 23 recites a top member having a “non-circular” shape. Claim 44 does not recite any specific shape for the top member. With regard to claim 23, an interface that is “non-circular” is not a particular shape. With regard to claim 44, no critical shape is mentioned.

The parent application (10/224,719) has been reviewed, and there is nothing describing the shape as being critical to the invention. If the shape is

indeed critical then the claims of the parent application may be invalid since they are directed to the same invention. Only after amending the specification in this continuing application does the applicant now state that the shape is critical.

Assuming *arguendo* that the shape is indeed critical, then one must review the applicant's disclosure for such a description. Upon reviewing the applicant's amended disclosure, there are two areas where shape of the top member is mentioned. The first is on page 11, lines 15-30. Here the applicant originally discloses that the top and bottom members are circular when viewed from the top. However, the applicant does not state that this preferred shape is critical. In the preliminary amendment on page 13A the applicant now states that the shape is "serpentine" when viewed from the top that also provides abutment means for allowing a slider to zip up adjacent to the interface. This second instance, which conflicts with the first shape, is the only reference to a "non-circular" shape.

This new critical feature (a "serpentine" shape with abutment means for allowing a slider to zip up adjacent to the interface" is not in the independent claims as presented.

Claim Objections

5. It is noted that the applicant discloses that the abutment surfaces (reference item 624) are the only items that are formed adjacent the locking

means (reference item 508) of a slider (reference item 504). It is recommended that claim 23 be rewritten as follows:

23. An interface for a piece of baggage, said interface comprising:
 - (a) a top securing member having a circular perimeter;
 - (b) at least one abutment located on said top securing member that extends away from the circular perimeter;
 - (c) a bottom securing member connected to said top securing member; and
 - (d) a recess within said top securing member; said recess comprising a vent.

Based on the above recommendation, claim 44 would be identical to claim 23 since the abutment is the only item disclosed that is adjacent to the slider. Likewise, claim 45 is identical to claim 34; claim 46 is identical to claim 35; claim 47 is identical to claim 38; claim 48 is identical to claim 39; claim 49 is identical to claim 40; claim 50 is identical to claim 41; claim 51 is identical to claim 42; and claim 52 is identical to claim 43.

It is recommended that the applicant amend claim 23, as noted above to properly claim the invention and to avoid new matter situations, and then cancel claims 44-52 in order to avoid any obvious-type double patenting rejection.

Allowable Subject Matter

6. Based on the applicant adopting the above recommended claim amendment, claims 23-43 would be allowable over the prior art.

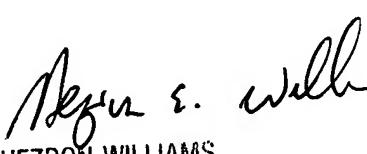
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (571) 272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dar
27 July 2004


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800